

### **Remarks/Arguments**

The foregoing amendments to the claims are of a formal nature and do not add new matter. Without acquiescing to the propriety of these rejections, solely to expedite prosecution in this case, claims 119-123 and 139-145 have been canceled without prejudice or disclaimer. Claims 124-126 and 129-131 are currently pending and have been indicated as allowable by the Examiner.

### **Claim Objection**

In view of the cancellation of claim 139 without prejudice or disclaimer, this objection is moot.

### **Priority**

Applicants rely on the 'chondrocyte proliferation' assay alone (Example 153) for patentable utility of the subject matter relating to claims 124-126 and 129-131. This utility was first disclosed in International Application PCT/US00/08439, filed March 30, 2000, priority for which has been claimed in the instant application. Hence, the present application is at least entitled to an effective filing date of **March 30, 2000**. The Examiner has acknowledged utility for the claimed nucleic acids based on the chondrocyte redifferentiation assay.

All rejections directed based on Sen *et al.* and Wang *et al.* or in connection with the gene amplification assay are moot since claims 119-123 and 139-145 have been canceled without prejudice or disclaimer and Applicants rely on the chondrocyte redifferentiation assay for patentable utility of pending claims 124-126 and 129-131.

### **Claim Rejections - 35 USC §102**

1. Claims 119-123 and 135-145 are rejected under 35 U.S.C. §102(a) as being anticipated by loci AI769814.
2. Claims 119-123 and 135-145 are rejected under 35 U.S.C. §102(a) as being anticipated by Jacobs et al. (WO 99/50405, pub date 10/7/99).

3. . Claims 119-123 and 135-145 are rejected under 35 U.S.C. §102(e) as being anticipated by Shimkets, USPN 6,689,866 or US patent Pub US2003/0054514 or US patent Pub US2003/0003532 (dated 3/8/00).

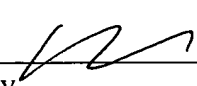
Again, in view of the cancellation of claims 119-123 and 135-145 without prejudice or disclaimer, these rejections are moot and should be withdrawn.

The present application is believed to be in *prima facie* condition for allowance, and an early action to that effect is respectfully solicited.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 08-1641 (Attorney Docket No.: 39780-2730P1C56). Please direct any calls in connection with this application to the undersigned at the number provided below.

Respectfully submitted,

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Daphne Reddy  
Reg. No. 53,507

on behalf of  
Daphne Reddy

**HELLER EHRMAN, LLP**  
**Customer No. 35489**  
275 Middlefield Road  
Menlo Park, California 94025  
Telephone: (650) 324-7000  
Facsimile: (650) 324-0638

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